



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING



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PUBLIC INSTRUCTION

December 18, 2007

TO: Local and Intermediate School District Superintendents,
Public School Academy Directors, and Nonpublic School Administrators

FROM: Carol Wolenberg, Deputy Superintendent

SUBJECT: Food Service Management Contracts

This letter is a special alert to all districts, agencies, and institutions currently contracting with a food service management company (FSMC) or considering establishing a contract for 2008-09. Two separate issues will be addressed.

Issue 1:

The U.S. Department of Agriculture (USDA) has specific regulations in 7 CFR, Parts 210 and 3016 that pertain to procurement of FSMC contracts. It has come to our attention that some current FSMC contracts contain an addendum to the request for proposal (RFP) or signed contract involving the payment of a procurement service fee and/or other costs that were not presented in the bid submitted during the procurement process. The addendum may have been presented after the bid was approved but before the contract was signed, or it may have been presented during the process of extending the contract into a second, third, fourth, or fifth year. As outlined in the USDA regulations, these addenda with costs not defined in the original bid are not permissible.

The Michigan Department of Education (MDE), by USDA regulations, must approve all such contracts and any ensuing addenda. USDA has notified the Department that it must implement specific controls to prevent FSMCs from modifying contract terms between the time of the award and the time the contract is signed or extended. We have become aware of language in some MDE approved cost reimbursable contracts/addenda that does not meet USDA procurement standards. Therefore, all districts, agencies, and institutions that have contracts and/or addenda containing charges for costs, such as procurement fees, that were not included in the original bid document, must either rebid their FSMC contract or have these amendments rescinded by June 30, 2008. Failure to take this action may result in a loss of funds to your program.

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Issue #2:

A recent USDA final rule on procurement requirements for the National School Lunch, School Breakfast, and Special Milk program became effective on November 30, 2007. The final regulations clarified the contracting process that must be used when selecting a FSMC. It appears that some contracts currently in place may not comply with the new provisions and may have to be re-bid prior to the usual cycle of one year plus four one-year extensions. MDE intends to update its current FSMC prototype and issue only a fixed price invitation for bid (IFB) for new contracts that will be awarded for 2008-09. MDE will no longer approve cost reimbursable contracts and will adjust its contract approval process in order to be in compliance with the final regulations. More details will be forwarded when they become available.

Questions regarding this may be directed to Cheryl Schubel, Supervisor, Fiscal Management and Food Distribution, at 517-241-2597.